REMARKS

In response to the Office Action dated March 17, 2006, claim 4 is amended. Claims 1-25 are now active in this application. No new matter has been added.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 1-4, 17, 18 and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Mitsuoka et al. (USPN 6,466,914).

Claims 5-16 and19-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitsuoka et al. in view of Swart (USPN 6,347,306).

II. Although claim 4 has been amended, the rejections are respectfully traversed.

As indicated by the title of the invention, Mitsuoka et al. relates to a "Job Brokering Apparatus", not to method/apparatus for calculating remuneration, as disclosed in the present invention. In particular, Mitsuoka et al. discloses the following:

A job-provider offers working conditions for a job through a broker. If a contractor has decided to obtain a contract to the job, the broker acts as intermediary between the job-provider and the contractor. Thus, there are descriptions concerning remunerations in Mitsuoka et al. However, such descriptions show that a money amount is proposed as working conditions, which the job-provider has set in advance. The determining method thereof is not disclosed by Mitsuoka et al.

From the above, it is clear that Mitsuoka et al. and the present invention are different from each other in objective as well as the art field.

Claim 1

With regard to the method recited in independent claim 1, the Examiner specifically refers to column 8, lines 5 to 25, lines 35 to 50 and column 12, lines 1 to 32 of Mitsuoka et al. as disclosing "dividing work into job units to be executed by one or a plurality of persons". However, Mitsuoka et al. does not disclose any step for dividing a whole work into job units. What Mitsuoka et al. discloses is a unit for ***ordering a job(s)***, which does not correspond to job units to be accomplished by workers. Line 8, page 22 through line 2, page 23 of the present application describes job units. The phrase "job unit(s)" is not described in Mitsuoka et al.

As to the step of "setting a base appraisal point for quantitatively appraising each of the job units", Mitsuoka et al., at column 8, lines 5 to 25 and lines 35 to 50, describes "job information", such as word count, used as a measure of work load in ordering a job, and extra fees (surcharge) resulting in when an offered job exceeds the basic work load for jobs in the particular field/profession.

Regarding the step of "giving each worker an appraisal point which represent whole or some amount of a base appraisal point set for each job unit, according to an accomplished ratio of the job unit", it is noted again that the invention of Mitsuoka et al. is directed to ***ordering a job(s)***. In Mitsuoka et al., although it would be possible that any "appraisal point" has been set in advance based on an "accomplishment rate", giving appraisal points to workers for jobs ***which have already been accomplished*** certainly would not occur since Mitsuoka et al. is directed to ***ordering a job(s)***. In this regard, it should be noted that claim 1 was previously amended to recite "an accomplished ratio" to more clearly delineate that the appraisal points are given to

workers for jobs ***which have already been accomplished***; i.e., "an accomplished ratio" of the job unit refers to what has already been accomplished with regard to the job unit. Moreover, in Mitsuoka et al., nothing is given with respect to a worker, as the job that has been contracted is the object. Mitsuoka et al. is quite different from the present invention in this regard.

As to the step of "determining a conversion rate for converting an appraisal point to a monetary value", it is noted that the appraisal point is given to each worker and, as noted above, in Mitsuoka et al., nothing is given with respect to a worker, as the job that has been contracted is the object. Therefore, it is unrealistic to contend that Mitsuoka et al. discloses determining a conversion rate for converting an appraisal point (given to each worker) to a monetary value.

Finally, regarding the step of "calculating remuneration of each worker by converting an appraisal point given to the worker based on the conversion rate", as noted above, in Mitsuoka et al., nothing is given with respect to a worker, as the job that has been contracted is the object.

As discussed above, Mitsuoka et al. is clearly different from claim 1 because the objective of Mitsuoka et al. is (to obtain) jobs which will be carried out, while in the present application, giving an appraisal point, determining a conversion rate and calculating remuneration ... by converting an appraisal point given to each worker, all relate to what has already been accomplished with regard to the job unit.

Moreover, no description regarding "worker" is found in Mitsuoka et al. Consequently, there is no description about how a worker accomplishes a job that the worker has contracted for. In other words, it could be said that the present invention discloses a method for determining remuneration upon completion of a job by a worker that has been contracted according to the invention of Mitsuoka et al.

Anticipation, under 35 U.S.C. § 102, requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference. ***Kalman v. Kimberly-Clark Corp.***, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983).

In view of the above, it is clear that each step of claim 1 is not found in Mitsuoka et al., either expressly described or under principles of inherency. This is to be expected since the present invention and Mitsuoka et al. are clearly different from each other in both objective and the art fields. Consequently, independent claim 1 is patentable over Mitsuoka et al.

Claim 2

As noted above, there is no description in Mitsuoka et al. regarding a "worker". If "worker" and "approver", which are recited in claim 2, were applied to Mitsuoka et al., a "contractor" and a "job-provider" in Mitsuoka et al. would correspond to these elements. However, it would not be possible that the "job-provider" has been appointed beforehand by the "contractor" in Mitsuoka et al.

Thus, claim 2, depending from independent claim 1, is patentable over Mitsuoka et al. also.

Claim 3

The Examiner provides no comment regarding the recitation "and/or expenses needed for the operation". Since the invention of Mitsuoka et al. is directed to merely ***order jobs***, the money amount of the order itself is equivalent to the "expenses needed for the operation". Therefore, claim 3 is clearly different from Mitsuoka et al.

Consequently, claim 3, depending from independent claim 1, is patentable over Mitsuoka et al. also.

Claim 4

The Examiner has obviously misunderstood the "assumed future operation value". In view of such misunderstanding and to expedite prosecution, claim 4 has been amended to recite "further comprising the step of assuming an operation value at specific time point in the future as a future operation value, converting the assumed future operation value to a present operation value representing an operation value at present by adding at least a development period and success probability, and...". This amendment is based upon the description from line 21 of page 23 to line 5 of page 24 of the present specification,

Since claim 4 depends from independent claim 1, which is not amended and is patentable over Mitsuoka et al., entry of the amended to claim 4 is respectfully solicited.

Claims 5, 6 and 7

Since features recited in claims 5-7 are not found in Mitsuoka et al., the Examiner additional relies upon Swart, which was previously cited. However, as independent claim 1 is patentable over Mitsuoka et al., claims 5, 6 and 7, depending directly or indirectly from independent claim 1, are patentable over Mitsuoka et al. also, even when considered in view of Swart.

Claims 8 to 16

These claims are similar to one of the above-discussed claims.

As independent claim 1 is patentable over Mitsuoka et al., claims 8-16, depending directly or indirectly from independent claim 1, are patentable over Mitsuoka et al. also, even when considered in view of Swart.

Apparatus claims 17 to 24

Independent claim 17 recites functions that are similar to the steps recited in independent claim 1, but is directed to an apparatus. Also, dependent claims 18-24 recite functions that are similar to steps recited in dependent claims 2 to 16, but are directed to an apparatus. Consequently, claims 17-24 are patentable over the applied prior art references for reasons similar to the reasons set forth above with respect to independent claim 1 and dependent claims 2-16.

Claim 25

Claim. 25 recites functions that are similar to functions recited in independent claims 1 and 17, but is directed to a computer-readable memory product. Consequently, claim 25 is patentable over Mitsuoka et al. also, for reasons similar to the reasons as to why claims 1 and 17 are patentable over Mitsuoka et al.

III. The invention of Mitsuoka et al. is directed to ***ordering a job***. Although Mitsuoka et al. discusses remuneration, it is merely a part of conditions when ***ordering a job***. There is no

description about a method for determining remuneration ***when the job has been accomplished***, as recited in independent claims 1, 17 and 25. Thus, independent claims 1, 17 and 25, as well as dependent claims 2-16 and 18-24, are patentable over Mitsuoka et al. and Swart, considered alone or in combination, and their allowance is respectfully solicited.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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